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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,705	02/01/2006	Akira Ichikawa	Q92872	8042

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WASHINGTON, DC 20037-3213

EXAMINER

KIM, EUNHEE

ART UNIT	PAPER NUMBER
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2123

MAIL DATE	DELIVERY MODE
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12/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/566,705

Applicant(s)

ICHIKAWA ET AL.

Examiner

Eunhee Kim

Art Unit

2123

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expire 4 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the paid of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~as set forth in~~ (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).

13. ☐ Other: _____.

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has argued that: "However, according to col. 10, lines 45-55 of Li, the physical design serves as the atomic element from which the designers work on a design. Therefore, Applicant respectfully submits that the physical design of Li is different from "designer discretion particulars", discretion of the designer with respect to the design of the product" recited in claim 1."

Examiner respectfully disagrees, as Li teaches designer discretion particulars as user specifying the parameters in Col.12 Lines 27 -34.

Further applicant has argued:

Further, the Examiner asserted that "drc (design rule check) rule" of Li corresponds to "determination rule" recited in independent claim 1. More specifically, the Examiner referred to col. 4, lines 45-61 and col. 7, lines 42-61 of Li, and asserted that Li teaches verification tool to verify if the physical design meets each of the drc design rules in respect to "design determination means" recited in claim 1. However, Applicant respectfully submits that the Examiner has not provided sufficient reasons for asserting that the drc rule of Li corresponds to "determination rule" because Li does not disclose that the drc rule includes a role, which is to be satisfied by design of the product in the case of "manufacturing the product", as recited in claim 1.

In response, examiner respectfully traverses applicant's remarks as the DRC rules as not arbitrary made. The DRC rules reflect the constraints required for the placement of the components once they undergo fabrication/manufacturing. Hence applicant's argument that the DRC rules are not for manufacturing art are unpersuasive. Please see US Patent 5705301 Col.9 Lines 29 -31 showing this well known fact in the art.

Applicant has further argued that:

Further, even assuming the physical design and the drc rule of Li do correspond to "designer discretion particulars" and "determination rule," respectively, (which Applicant submits is incorrect) the Examiner's assertion regarding the "designer result discretion, means" is inconsistent because in that case the verification tool of Li would verify if the "designer discretion particulars" meets each of the "determination rule,". As recited in claim 1, "design result determination means" is for determining whether a design result obtained by the automated design means satisfies the determination rule, while the design result is obtained by using the design requirement particulars, the designer discretion particulars, and the design rule.

In response, examiner disagrees with applicant as design result (Li: Col.7 Lines 42-61) in Li is obtained using design requirement particulars (Li: Col.2 Lines 11-23; Col.6 Lines 50-67- as technology file), the designer discretion particulars (Li: Col.12 Lines 27-34), and the design rule (Li: Col.6 Lines 50-67).

Examiner finds applicant's argument unpersuasive and the dependent claims remain rejected based on their dependency.

EK